

Order

Michigan Supreme Court
Lansing, Michigan

June 2, 2006

Clifford W. Taylor,
Chief Justice

130106

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

DAIMLERCHRYSLER CORPORATION,
Petitioner-Appellant,

v

SC: 130106
COA: 262518
MTT: 295872

MICHIGAN DEPARTMENT OF
TREASURY,
Respondent-Appellee.

On order of the Court, the application for leave to appeal the November 1, 2005 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other peremptory action. MCR 7.302(G)(1). The parties shall include among the issues to be addressed at oral argument: (1) whether the Legislature's use of the word "an" end user in MCL 207.1039 was intended to be used only to describe the ultimate end user and, if not, whether other "end users" such as a "bulk end user" should be included; (2) whether the "irrebuttable presumption" of MCL 207.1026(1) or the "rebuttable presumption" of MCL 207.1026(2) applies to this case; (3) whether petitioner is a "bulk end user" as defined in MCL 207.1002(f) or an "industrial end user" as it was defined in MCL 207.1003(o); (4) whether the transfer of the fuel from petitioner's self-storage tank to the vehicles constitutes "consumption" of the fuel or whether the fuel must be burned before it is "consumed;" (5) whether, if the transfer of the fuel is "consumption," petitioner then becomes "an" end user because it is a "bulk end user;" (6) whether placing fuel in the tanks of vehicles destined for other states is a "nontaxable purpose" that would allow for a refund under MCL 207.1008(5); and (7) whether MCL 207.1047 was intended to be a "catch-all" provision for entities such as petitioner that do not fit within other provisions of the act. The parties may file supplemental briefs within 42 days of the date of this order, but they should avoid submitting a mere restatement of the arguments made in their application papers.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 2, 2006

Corbin R. Davis

Clerk